

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2015-107-01105R

Parcel No. 8847-07-182-022

Richard Wacker,

Appellant,

v.

Sioux City Board of Review,

Appellee.

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**Introduction**

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 30, 2015. Richard Wacker was self-represented and requested his appeal without hearing. Attorney Jack Faith is counsel for the Sioux City Board of Review.

The subject property is a split-level, residential home located at 3444 Alpine Court, Sioux City. It was built in 1984 and has 1932 square feet of living area; a full, unfinished basement; a patio; a small open porch; and a two-car attached garage. The site is 0.178 acres.

The property's January 1, 2015, assessment was \$185,300, allocated as \$26,700 in land value and \$158,600 to dwelling value. Wacker protested to the Board of Review claiming the assessment is not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a).

The Board of Review reduced the assessed value to \$183,800, allocated as \$26,700 in land value and \$157,100 to dwelling value. Wacker then appealed to this Board asserting the correct assessment is \$170,000.

## Findings of Fact

On his Board of Review petition, Wacker submitted the addresses and assessments of five properties he considers comparable to his property, which are summarized in the following chart.

Address	2015 Assessed Value
Subject	\$183,800
4030 Lincoln Way	\$161,000
3512 Alpine Ave	\$177,000
4420 Nicollet Way	\$175,000
4615 Clinton Ct	\$166,450
4912 Evergreen	\$158,000

There is no other information about these properties in the record for PAAB to determine if they are comparable, nor did Wacker offer any analysis of them. Moreover, there is no evidence any of the properties recently sold; and Wacker did not submit any other opinion of market value for the properties. An equity claim is supported by an assessment/sale ratio analysis, which requires a comparison of the assessment to a prior year sale date. Without this information a ratio analysis cannot be developed.

Wacker also submitted three sales to PAAB, which are summarized in the following chart. (Exs. 1-3).

Address	Sale Price	Sale Date	Gross Living Area (GLA)
Subject	N/A	N/A	1932
4504 Ravine Park	\$164,000	Jan-15	2236
2745 S Coral	\$168,000	Apr-15	2691
4017 Lincoln Way	\$156,700	Jun-15	2018

First, we note it appears Wacker is asserting the sales prices of these properties indicate his property is over assessed. However, he did not raise a claim of overassessment to the Board of Review; therefore, PAAB is without jurisdiction to consider an overassessment claim. Moreover, we are unable to consider them for an equity analysis as Wacker did not submit any information about the assessments of these properties, which, as previously noted, is necessary to develop a ratio analysis to support an equity claim.

The Board of Review did not submit any evidence.

## Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those

properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

*Id.* at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Wacker offered the assessments of five properties and the sale prices of three other properties he considered comparable to his for an equity analysis. However, there is insufficient evidence in the record for all of the properties to complete an assessment/sales ratio analysis.

For the foregoing reasons, the Board finds Wacker failed to show his property is inequitably assessed as compared to like properties.

## Order

IT IS THEREFORE ORDERED that the Sioux City Board of Review's action is affirmed.

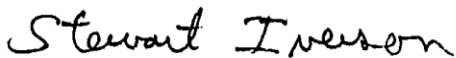
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 17th day of February, 2016.



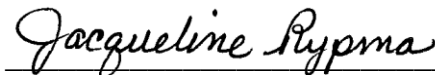
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Karen Oberman, Board Member



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Stewart Iverson, Board Chair



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Jacqueline Rypma, Board Member

Copies to:

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Jack Faith